

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 15 be amended to read as follows:

- 1 Page 11, between lines 18 and 19, begin a new paragraph and insert:
- 2 "SECTION 10. IC 3-11-10-1.2 AS ADDED BY SEA 483-2005, IS
- 3 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:
- 4 Sec. 1.2. An absentee voter is not required to provide proof of
- 5 identification when:
- 6 (1) mailing, delivering, or transmitting an absentee ballot under
- 7 section 1 of this chapter; or
- 8 (2) voting before an absentee board under **section 25 of this**
- 9 **chapter."**
- 10 Page 15, between lines 1 and 2, begin a new paragraph and insert:
- 11 "SECTION 14. IC 3-11-10-26 IS AMENDED TO READ AS
- 12 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. (a) As an
- 13 alternative to voting by mail, a voter is entitled to cast an absentee
- 14 ballot before an absentee voter board:
- 15 (1) in the office of the circuit court clerk (or board of elections and
- 16 registration in a county subject to IC 3-6-5.2); or
- 17 (2) at a satellite office established under section 26.3 of this
- 18 chapter.
- 19 (b) The voter must:
- 20 (1) sign an application on the form prescribed by the commission
- 21 under IC 3-11-4-5.1; **and**
- 22 (2) **provide proof of identification;**
- 23 before being permitted to vote. The application must be received by the
- 24 circuit court clerk not later than the time prescribed by IC 3-11-4-3.
- 25 (c) The voter may vote before the board not more than twenty-nine

(29) days nor later than noon on the day before election day.

(d) An absent uniformed services voter who is eligible to vote by absentee ballot in the circuit court clerk's office under IC 3-7-36-14 may vote before the board not earlier than twenty-nine (29) days before the election and not later than noon on election day. If a voter described by this subsection wishes to cast an absentee ballot during the period beginning at noon on the day before election day and ending at noon on election day, the county election board or absentee voter board may receive and process the ballot at a location designated by resolution of the county election board.

(e) The absentee voter board in the office of the circuit court clerk must permit voters to cast absentee ballots under this section for at least seven (7) hours on each of the two (2) Saturdays preceding election day.

(f) Notwithstanding subsection (e), in a county with a population of less than twenty thousand (20,000), the absentee voter board in the office of the circuit court clerk, with the approval of the county election board, may reduce the number of hours available to cast absentee ballots under this section to a minimum of four (4) hours on each of the two (2) Saturdays preceding election day.

(g) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:

- (1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;
- (2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and
- (3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

(h) As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

- (1) information concerning the effect of casting multiple votes for an office; and
- (2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

(i) If:

- (1) the voter is unable or declines to present the proof of identification; or
- (2) a member of the board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

the voter shall be permitted to cast an absentee ballot and the voter's absentee ballot shall be treated as a provisional ballot.

SECTION 15. IC 3-11.7-5-2, AS AMENDED BY SEA 483-2005, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as provided in section 5 of this chapter, if the county election board determines that all the following apply, a provisional ballot is valid and shall be counted under this chapter:

(1) The affidavit executed by the provisional voter under IC 3-11.7-2-1 is properly executed.

(2) The provisional voter is a qualified voter of the precinct and has provided proof of identification, if required, under IC 3-10-1, ~~or~~ IC 3-11-8, **or IC 3-11-10-26.**

(3) Based on all the information available to the county election board, including:

(A) information provided by the provisional voter;

(B) information contained in the county's voter registration records; and

(C) information contained in the statewide voter registration file;

the provisional voter registered to vote at a registration agency under this article on a date within the registration period.

(b) If the provisional voter has provided information regarding the registration agency where the provisional voter registered to vote, the board shall promptly make an inquiry to the agency regarding the alleged registration. The agency shall respond to the board not later than noon of the first Friday after the election, indicating whether the agency's records contain any information regarding the registration. If the agency does not respond to the board's inquiry, or if the agency responds that the agency has no record of the alleged registration, the board shall reject the provisional ballot. The board shall endorse the ballot with the word "Rejected" and document on the ballot the inquiry and response, if any, by the agency.

(c) Except as provided in section 5 of this chapter, a provisional ballot cast by a voter described in IC 3-11.7-2-1(b) is valid and shall be counted if the county election board determines under this article that the voter filed the documentation required under IC 3-7-33-4.5 and 42 U.S.C. 15483 with the county voter registration office not later than the closing of the polls on election day.

SECTION 16. IC 3-11.7-5-2.5, AS ADDED BY SEA-483-2005, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.5. (a) A voter who:

(1) was challenged under IC 3-10-1, ~~or~~ IC 3-11-8, **or IC 3-11-10-26** as a result of the voter's inability or declination to provide proof of identification; and

(2) cast a provisional ballot;

may personally appear before the circuit court clerk or the county election board not later than the deadline specified by section 1 of this chapter for the county election board to determine whether to count a provisional ballot.

(b) Except as provided in subsection (c) or (e), if the voter:

(1) provides proof of identification to the circuit court clerk or county election board; and

(2) executes an affidavit before the clerk or board, in the form prescribed by the commission, affirming under the penalties of perjury that the voter is the same individual who:

(A) personally appeared before the precinct election board; and

(B) cast the provisional ballot on election day;

the county election board shall find that the voter's provisional ballot is valid and direct that the provisional ballot be opened under section 4 of this chapter and processed in accordance with this chapter.

(c) If the voter executes an affidavit before the circuit court clerk or county election board, in the form prescribed by the commission, affirming under the penalties of perjury that:

(1) the voter is the same individual who:

(A) personally appeared before the precinct election board; and

(B) cast the provisional ballot on election day; and

(2) the voter:

(A) is:

(i) indigent; and

(ii) unable to obtain proof of identification without the payment of a fee; or

(B) has a religious objection to being photographed;

the county election board shall determine whether the voter has been challenged for any reason other than the voter's inability or declination to present proof of identification to the precinct election board.

(d) If the county election board determines that the voter described in subsection (c) has been challenged solely for the inability or declination of the voter to provide proof of identification, the county election board shall:

(1) find that the voter's provisional ballot is valid; and

(2) direct that the provisional ballot be:

(A) opened under section 4 of this chapter; and

(B) processed in accordance with this chapter.

(e) If the county election board determines that a voter described in subsection (b) or (c) has been challenged for a cause other than the voter's inability or declination to provide proof of identification, the board shall:

(1) note on the envelope containing the provisional ballot that the voter has complied with the proof of identification requirement; and

(2) proceed to determine the validity of the remaining challenges set forth in the challenge affidavit before ruling on the validity of the voter's provisional ballot.

(f) If a voter described by subsection (a) fails by the deadline for counting provisional ballots referenced in subsection (a) to:

(1) appear before the county election board; and

1 (2) execute an affidavit in the manner prescribed by subsection (b)
 2 or (c);

3 the county election board shall find that the voter's provisional ballot is
 4 invalid.

5 SECTION 17. IC 3-11.7-5-3, AS AMENDED BY SEA 483-2005,
 6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 7 2005]: Sec. 3. (a) If the board determines that the affidavit executed by
 8 the provisional voter has not been properly executed, that the
 9 provisional voter is not a qualified voter of the precinct, that the voter
 10 failed to provide proof of identification when required under IC 3-10-1,
 11 ~~or~~ IC 3-11-8, **or IC 3-11-10-26**, or that the provisional voter did not
 12 register to vote at a registration agency under this article on a date
 13 within the registration period, the board shall make the following
 14 findings:

15 (1) The provisional ballot is invalid.

16 (2) The provisional ballot may not be counted.

17 (3) The provisional ballot envelope containing the ballots cast by
 18 the provisional voter may not be opened.

19 (b) If the county election board determines that a provisional ballot
 20 is invalid, a notation shall be made on the provisional ballot envelope:
 21 "Provisional ballot determined invalid".

22 Renumber all SECTIONS consecutively.

(Reference is to ESB 15 as printed March 25, 2005.)

Representative Brown T